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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/662,135 | 09/12/2003 | Michael C. Van Zandt | 99-452-LL | 9089 |

7590 03/27/2006

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EXAMINER

ANDERSON, REBECCA L

ART UNIT PAPER NUMBER

1626

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|-----------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/662,135 | VAN ZANDT, MICHAEL C. | |
| | Examiner | Art Unit | |
| | Rebecca L. Anderson | 1626 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 18-26, 28-30, 39, 42, 46, 49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) 46, 49 and 50 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-26 and 28-30 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1, 3, 39 and 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

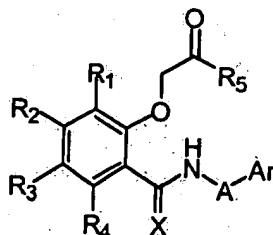
Claims 1, 3, 18-26, 28-30, 39, 42, 46, 49 and 50 are currently pending in the instant application. Claims 46, 49 and 50 are withdrawn as being to non-elected subject matter, claims 1, 3, 39 and 42 are objected and claims 18-26 and 28-30 appear allowable.

Election/Restrictions

This application contains claims 46, 49 and 50 drawn to an invention nonelected in the paper filed 14 December 2004. A complete reply to the final action must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

The elected invention for search and examination is:

The products of the formula



Wherein

A is C1-C4 alkylene group optionally substituted with C1-C2 alkyl or mono-or disubstituted with halogen, preferably fluoro or chloro;

X is as found in claim 1;

R1, R2, R3 and R4 are each independently

hydrogen, halogen, or nitro, or an alkyl group of 1-6 carbon atoms optionally substituted with one or more halogens; OR₇, SR₇, S(O)R₇, S(O)₂R₇, C(O)N(R₇)₂, or N(R₇)₂, wherein each R₇ is independently hydrogen, an alkyl group of 1-6 carbon atoms (which may be substituted with one or more halogens) or benzyl, where the phenyl portion is optionally substituted with up to three groups

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independently selected from halogen, C₁-C₆ alkyl, C₁-C₆ alkoxy, amino, and mono- or di(C₁-C₆)alkylamino; phenoxy where the phenyl portion is optionally substituted with up to three groups independently selected from halogen, C₁-C₆ alkyl, C₁-C₆ alkoxy, amino, and mono- or di(C₁-C₆)alkylamino; or phenyl which is optionally substituted with up to three groups independently selected from halogen, C₁-C₆ alkyl, C₁-C₆ alkoxy, amino, and mono-or di(C₁-C₆)alkylamino;

R5 is as found in claim 1; and

Ar represents benzothiazolyl, which is optionally substituted with up to five groups.

The remaining subject matter of claims 1, 3, and 42 that is not drawn to the above elected invention and the subject matter of claims 46, 49 and 50 stands withdrawn under 37 CFR 1.142(b) as being for non-elected subject matter. The remaining compounds which are not within the elected invention, which are independent and distinct from the elected invention and do not have unity with the elected compound and are therefore withdrawn by means of a restriction requirement within the claims are, for example, the compounds wherein Ar is benzoxazolyl, isoquinolyl, benzothioophenyl, benzofuranyl, benzimidazolyl, oxadiazolyl or indolyl.

The above mentioned withdrawn compounds which are withdrawn from consideration as being for nonelected subject matter differ materially in structure and composition from the compounds of the elected invention. Therefore, again, the

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compounds which are withdrawn from consideration as being for non-elected subject matter differ materially in structure and composition and have been restricted properly as a reference, which anticipated but the elected subject matter would not even render obvious the non-elected subject matter.

These withdrawn compounds are independent and distinct from the elected invention and do not have unity with the species elected and are therefor withdrawn by means of a restriction requirement within the claims.

The requirement is still deemed proper and is FINAL.

Response to Amendment and Arguments

Applicants' amendment file 27 December 2005 has overcome the objection to claims 18-30 as containing non-elected subject matter. While applicant states on page 12 of the remarks that all the claims are now within the scope of the elected invention, it is noted that claims 1, 3 and 42 still contain non-elected subject matter and the objection to these claims is therefore maintained. Claim 39, while not dependent upon a rejected claim, is still objected to as it is dependent upon an objected claim.

Applicants' amendment to claim 1 to limit the substitution on Ar to four substituents and indicating what the substituents are has overcome the 35 USC 112 2nd paragraph rejection of claims 1, 3 and 42 as being indefinite. Applicants' amendment to claims 19, 20, 21 and 22 in addition to applicants' remarks on pages 12 and 13 have overcome the 35 USC 112 2nd paragraph rejection of claims 1 and 21-25 as being indefinite. The cancellation of claim 27 and the dependency change of claim 18 has overcome the 35 USC 112 2nd paragraph rejection of claims 27-30.

Claim Objections

Claims 1, 3 and 42 are objected to as containing non-elected subject matter.

Claims 1, 3 and 42 presented drawn solely to the elected invention identified above as:
The elected invention for search and examination would appear allowable over the prior art of record.

Claim 39 is objected to as being dependent upon an objected base claim, but would appear allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rebecca L. Anderson whose telephone number is (571)

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272-0696. Mrs. Anderson can normally be reached Monday through Friday 5:30AM to 2:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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3/23/06

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